

2009 DRAFTING REQUEST

Bill

Received: 09/08/2008

Received By: mkunkel

Wanted: As time permits

Identical to LRB:

For: Mary Hubler (608) 266-2519

By/Representing: Steve Engelbert

This file may be shown to any legislator: NO

Drafter: mkunkel

May Contact:

Addl. Drafters:

Subject: Public Util. - energy

Extra Copies:

Submit via email: YES

Requester's email: Rep.Hubler@legis.wisconsin.gov

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Defining "renewable energy" to include energy derived from garbage or industrial, commercial or household waste

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?				_____			Local
/1	mkunkel 09/08/2008	jdye 09/12/2008	rschluet 09/12/2008	_____	sbasford 09/12/2008	cdurst 02/10/2009	

FE Sent For:

<END>

per Steve
via phone

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/?	mkunkel	1 9/12 jld					

FE Sent For:

<END>

Kunkel, Mark

From: Tradewell, Becky
Sent: Monday, July 28, 2008 4:04 PM
To: Engelbert, Steve
Cc: Kunkel, Mark
Subject: FW: Message for Becky Tradewell

Steve,

This request falls under the Public Utilities subject area, so I have referred it to Mark Kunkel.

Becky Tradewell
6-7290

From: Parisi, Lori
Sent: Monday, July 28, 2008 3:53 PM
To: Tradewell, Becky
Subject: FW: Message for Becky Tradewell

See below....

From: Engelbert, Steve
Sent: Monday, July 28, 2008 3:23 PM
To: LRB.Legal
Subject: Message for Becky Tradewell

Ms. Tradewell:

Rep. Mary Hubler requests a bill that would classify waste to energy as a renewable resource as discussed in the message below. If you are the drafter on these sorts of issues, please draft for this session and we will have re-draft done for next session at the appropriate time.

Steve Engelbert
Office of Rep. Mary Hubler
266-2519

Renewable Energy Resource Classification/Determination Conversation with Mr. Paul Helgeson, WI Public Service Commission

Today I called Mr. Helgeson of the WI Public Service Commission to secure an understanding of what it would take to have exported electricity production from the Barron County Waste-to-Energy Facility be classified as renewable energy. This classification is very important in terms of our energy contract price negotiations with potential utility customers.

He referred to WI. Statute 196.378 which covers renewable energy resources (copy attached). The statute generally excludes municipal solid waste under the definition of "biomass". However, the statute does grandfather in facilities in service before January 1, 1998 that used biomass fuel derived from refuse. This clause was apparently included during the legislative process as a concession to the Excel/NSP French Island facility in LaCrosse that actively participated in the process at that time. Upon my question, Mr. Helgeson did not rule out that this provision may also apply to the Barron County facility. He suggested that this be researched by our attorney.

The "biomass" definition in the statute does specifically include landfill gases which is interesting in that these gases are generated from bio-degradation of the same carbon in the waste that is the fuel for our waste-to-energy facility. The only difference is that our energy conversion is about a magnitude more efficient. From that point of view alone municipal waste should be re-classified by statute in Wisconsin as a renewable resource.

To revise the statute would require legislative action. From a time frame standpoint, the last update to 196.378 took approximately two years to become effective into law.

Waste-to-energy is classified as a renewable resource by twenty two states, and is recognized as a renewable resource by the USEPA, the US Department of Energy, the Integrated Solid Waste Management Association, the US Conference of Mayors and by SWANA (Solid Waste Association of North America). It also should be noted that many environmental groups and energy conservation activists are currently supporting solid waste as a renewable energy resource. This specific determination of whether or not waste-to-energy of municipal solid waste is legally a renewable energy resource is currently made on a state by state basis. However, there are several bills currently in the US Congress that are under consideration.



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-0171/1

MDK: ^:....

6-note

Jld

2009 BILL

Gen

- 1 AN ACT ...; relating to: allowing electric utilities and retail electric cooperatives
2 to include energy derived from garbage and certain waste in satisfying
3 renewable portfolio standards.

Analysis by the Legislative Reference Bureau

Under current law, an electric utility or retail electric cooperative is subject to certain requirements for ensuring that, in a given year, a specified percentage of the electricity that the utility or cooperative sells to retail customers is derived from renewable resources. Such requirements are commonly referred to as renewable portfolio standards. Current law defines "renewable resource" as an electrical energy source that derives energy from specified sources, including biomass. Current law defines "biomass" as a source that derives energy from any of the following: 1) wood or plant material or residue; 2) biological waste; 3) crops grown for use as an electrical energy source; or 4) landfill gases. However, except for certain refuse-derived fuel used in a facility that was in service before January 1, 1998, current law excludes garbage and nonvegetation-based industrial, commercial, and household waste from the definition of "biomass." As a result, a utility or cooperative may not include electricity derived from garbage and such waste in determining whether the utility or cooperative has satisfied renewable portfolio standards.

This bill changes the definition of "biomass" so that it includes, rather than excludes, garbage and such waste. As a result, a utility or cooperative may include electricity derived from garbage and such waste in determining whether the utility or cooperative has satisfied renewable portfolio standards.

BILL

For further information see the *local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 77.54 (30) (a) 1m. of the statutes is amended to read:

77.54 (30) (a) 1m. Biomass, as defined in s. 196.378 (1) (ar), 2007 stats., that is used for fuel sold for residential use.

History: 1971 c. 64, 154, 215, 311; 1973 c. 90, 156, 240; 1975 c. 39, 96, 102, 146, 200; 1977 c. 29; 1977 c. 83 ss. 13, 26; 1977 c. 250, 368, 418; 1979 c. 1, 34, 87, 174; 1981 c. 20; 1981 c. 79 s. 18; 1981 c. 96 s. 67; 1981 c. 264; 1981 c. 282 s. 47; 1981 c. 317; 1983 a. 27 ss. 1284d to 1284np, 2202 (38); 1983 a. 189 ss. 101, 106, 329 (5), (12), (13); 1983 a. 192, 287, 405, 426, 498, 510, 538, 544; 1985 a. 29, 149, 332; 1987 a. 27; 1987 a. 312 s. 17; 1987 a. 399; 1989 a. 31, 238, 270, 335, 359; 1991 a. 37, 39, 269, 316; 1993 a. 16, 263, 332; 1995 a. 27, 125, 225, 227; 1997 a. 27, 35, 41, 184, 237, 291; 1999 a. 9, 65, 83; 1999 a. 150 s. 672; 1999 a. 167; 2001 a. 16, 103, 109; 2003 a. 99, 128; 2005 a. 25, 74, 141, 149, 335, 366, 479; 2007 a. 11, 19, 20, 97, 130.

SECTION 2. 196.378 (1) (ar) of the statutes is amended to read:

196.378 (1) (ar) "Biomass" means a resource that derives energy from wood or plant material or residue, biological waste, crops grown for use as a resource or landfill gases. "Biomass" ~~does not include~~ garbage, as defined in s. 289.01 (9), or nonvegetation-based industrial, commercial or household waste, ~~except that~~ "biomass" ~~includes refuse-derived fuel used for a renewable facility that was in service before January 1, 1998.~~

History: 1999 a. 9; 2001 a. 30; 2005 a. 141.

(END)

d-note
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DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0171/1dn

MDK:.....

date

jld

Rep. Hubler:

Please note that this bill changes the definition of "biomass" for purposes of the renewable portfolio standards in s. 196.378, but does not affect the definition of "biomass" for purposes of a sales and use tax exemption in s. 77.54 (30) (a) 1m. The bill accomplishes this result by amending the sales and use tax exemption so that it refers to biomass as defined under current law, rather than as defined as changed in the bill. I did this to make sure that the bill does not affect the sales and use tax exemption.

However, if the changes in the definition do not have any actual substantive impact on the sales and use tax exemption, then it would be okay to eliminate the bill's amendment of s. 77.54 (30) (a) 1m. You may want to obtain DOR's input on this issue.

Mark D. Kunkel
Senior Legislative Attorney
Phone: (608) 266-0131
E-mail: mark.kunkel@legis.wisconsin.gov

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0171/1dn
MDK:jld:rs

September 12, 2008

Rep. Hubler:

Please note that this bill changes the definition of "biomass" for purposes of the renewable portfolio standards in s. 196.378, but does not affect the definition of "biomass" for purposes of a sales and use tax exemption in s. 77.54 (30) (a) 1m. The bill accomplishes this result by amending the sales and use tax exemption so that it refers to biomass as defined under current law, rather than as defined as changed in the bill. I did this to make sure that the bill does not affect the sales and use tax exemption.

However, if the changes in the definition do not have any actual substantive impact on the sales and use tax exemption, then it would be okay to eliminate the bill's amendment of s. 77.54 (30) (a) 1m. You may want to obtain DOR's input on this issue.

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Senior Legislative Attorney
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